



#211 Response  
1-6-03  
R. Grader

Patent

Attorney's Docket No. 018656-107

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**In re Patent Application of**

Manami KUISEKO et al

Application No.: 09/450,271

Filed: November 26, 1999

**For: REFLECTING MICROOPTICAL SYSTEM**

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Group Art Unit: 2873  
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Examiner: Timothy J. T  
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✓ Confirmation No.: 7399

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## **RESPONSE**

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

In response to the Office Action dated September 16, 2002, Applicants respectfully request reconsideration and withdrawal of the rejections of the claims.

The most recent Office Action essentially repeats all of the grounds of rejection set forth in the prior Office Action dated April 17, 2002. Each of those grounds of rejection was addressed in the Response filed August 19, 2002.

At the outset, it is to be noted that, in Applicants' prior response, claim 27 was cancelled. However, the most recent Office Action continues to set forth a rejection of claim 27. It is respectfully submitted that this ground of rejection was rendered moot by the cancellation of the claim.

In responding to the arguments in Applicants' most recent response, traversing the rejections based upon the Braun reference, the most recent Office Action states "Since it has been commonly known in the lens art to form a surface of the lens spherically . . . , it

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would have been perfectly obvious for one skilled in the art [sic] to use an aspherical surface." Turning first to claim 25, it is to be noted that this claim was rejected under 35 U.S.C. §102 as being *anticipated* by the Braun patent. An allegation that it would have been obvious to employ an aspherical surface is not sufficient to support a rejection under §102. Rather, "to anticipate a claim, the reference must teach *every* element of the claim." MPEP §2131, emphasis added. The Office Action apparently recognizes that the Braun patent does not disclose every limitation set forth in claim 25. Accordingly, it is respectfully submitted that the current rejection of this claim under §102, as being anticipated by the reference, cannot be maintained.

Turning to the rejection of the remaining claims, the Office Action states "Although, Braun discloses the lens has a spherical surface, he doesn't state that the invention cannot incorporate an aspherical surface . . ." Applicants respectfully take issue with this statement. As repeatedly pointed out in the prior responses, the Braun patent explicitly states that the disclosed invention "requires a spherical shaped surface . . ." It is respectfully submitted that a person of ordinary skill in the art would understand this statement to mean that no other type of surface is acceptable, only a spherical shaped surface is appropriate in the context of the invention disclosed in that patent.

Furthermore, even if the patent doesn't explicitly state that the invention cannot incorporate an aspherical surface, that fact, by itself, does not make the use of an aspherical surface obvious. In this regard, the Office Action concludes:

The bottom line is, taking a lens and placing an aspherical surface on one side or both of the lens to correct for

aberrations has been commonly done for years and I could pull hundreds of optical system which have done this.

It is respectfully submitted that this statement does not support the current grounds of rejection. The *only* rejection of record is based upon the Braun patent, and that patent teaches *away* from using an aspherical surface, since it "requires" a spherical surface. If the Examiner believes that there is other available prior art that discloses the use of an aspherical surface and that would support a rejection of the claims, it is incumbent upon him to cite such art and apply it against the claims. Until such time as that is done, Applicants can only address the issues raised by the rejection based upon the Braun patent. For the reasons presented in their various responses, the disclosure of *that* patent is not sufficient to support a rejection of the claims.

For the foregoing reasons, it is respectfully submitted that the current grounds of rejection cannot be maintained, and therefore should be withdrawn.

Respectfully submitted,

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